

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Dwight Freeman,	:	
	:	
Plaintiff	:	Civil Action 2:09-cv-565
	:	
v.	:	Judge Marbley
	:	
Director Terry Collins, <i>et al</i> ,	:	Magistrate Judge Abel
	:	
Defendants	:	

Report and Recommendation

This matter is before the Magistrate Judge on the Ohio Attorney General's unopposed November 17, 2010 second motion to dismiss named individuals Barr, Batista, Bevins, Cadogan, Terry Collins, Comer, Gary Croft, Cynthia M Davis, Durham, Fields, Larry Green, T. Hill, Phillip Kerns, Al Louise, Lykins, Markins, L. Mautman, Joshua Maynard, Messer, Murphy, Owens, Pack, Mona Parks, Pearson, Porter, Dirk Prise, David See, Stalnaker, Lt. Stone, Welch, Witman, Woodard, and Sean Wright (doc. 41).

In the intervening weeks since this motion has been filed, defendants Croft, Barr, Cadogan, Comer, Davis, Durham, Green, Mautman, Maynard, Messer, Prise, See, Stone, Fields, Porter, and Witman have been served with the summons and complaint. Summonses were returned unexecuted for Trooper Ball, Terry Collins, Phillip Kerns, Al Louise, Murphy, Owens, Stalnaker, Welch, and Woodward.

Consequently, the Magistrate Judge RECOMMENDS that the Ohio Attorney General's November 17, 2010 second motion to dismiss named individuals Barr, Batista, Bevins, Cadogan, Terry Collins, Comer, Gary Croft, Cynthia M Davis, Durham, Fields, Larry Green, T. Hill, Phillip Kerns, Al Louise, Lykins, Markins, L. Mautman, Joshua Maynard, Messer, Murphy, Owens, Pack, Mona Parks, Pearson, Porter, Dirk Prise, David See, Stalnaker, Lt. Stone, Welch, Witman, Woodard, and Sean Wright (doc. 41) be GRANTED in part. The Magistrate Judge RECOMMENDS that defendants Trooper Ball, Terry Collins, Phillip Kerns, Al Louise, Murphy, Owens, Stalnaker, Welch, and Woodward be DISMISSED from this action. The Magistrate Judge FURTHER RECOMMENDS that the action proceed against defendants Croft, Barr, Cadogan, Comer, Davis, Durham, Green, Mautman, Maynard, Messer, Prise, See, Stone, Fields, Porter, and Witman because they have now been served with the summons and complaint.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v. Arn*, 474 U.S. 140, 150-152 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981);

United States v. Sullivan, 431 F.3d 976, 984 (6th Cir. 2005); *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Willis v. Sullivan*, 931 F.2d 390, 401 (6th Cir. 1991).

s/Mark R. Abel
United States Magistrate Judge